

UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Helmut Jerg et al.
Application Number: 10/564,230
Filing Date: 01/10/2006
Group Art Unit: 1711
Examiner: Benjamin Lee Osterhout
Title: DISHWASHER

Mail Stop Appeal Brief – Patents
Commissioner for Patents
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REPLY BRIEF

Appellants hereby file a reply brief in the above-identified application.

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(1) SUMMARY OF THE NEW REASONING SET FORTH IN THE EXAMINER'S
ANSWER DATED APRIL 12, 2010

Appellants in this Reply Brief address two new arguments raised by the Examiner in support of the final rejection of claims 22 and 23 as being anticipated under 35 U.S.C. §102(b) by European Patent Application No. 358279 A1 to Fried et al. It remains the position of Appellants that the rejections of claims 22 and 23 as being anticipated under 35 U.S.C. §102(b) is not a proper rejection. To facilitate an understanding on Appellants' position, a brief summary of the status of the final rejection of claims 22 and 23 is provided as follows.

In the Final Office Action dated August 19, 2009, the Examiner finally rejected claims 22 and 23 as being anticipated under 35 U.S.C. §102(b) by European Patent Application No. 358279 A1 to Fried et al. Now, in the Examiner's Answer dated April 12, 2010, the Examiner continues to assert that claims 22 and 23 are anticipated under 35 U.S.C. §102(b) by European Patent Application No. 358279 A1 to Fried et al as set forth just above. Moreover, in addition to still asserting the arguments set forth in the Final Office Action dated August 19, 2009, the Examiner also sets forth in the Examiner's Answer dated April 12, 2010 two new bases in support of the final rejection of claims 22 and 23 as being anticipated under 35 U.S.C. §102(b) by European Patent Application No. 358279 A1 to Fried et al. Specifically, on Page 13 of the Examiner's Answer dated March 12, 2010, the Examiner now offers the following new reasoning in support of the final rejection of claim 22 as being anticipated under 35 U.S.C. §102(b) by European Patent Application No. 358279 A1 to Fried et al: "Appellant never specifically claims that the ambient air is outside of the dishwasher so the Examiner has interpreted ambient air to include air within the washing container, rather Examiner has interpreted ambient air to include air surrounding the inlet valve within the washing container." Also, on Page 12 of the Examiner's Answer dated April 12, 2010, the Examiner now offers the following additional new reasoning in support of claim 23 as being anticipated under 35 U.S.C. §102(b) by European Patent Application No. 358279 A1 to Fried et al: "Appellant argues that apparatus of Fried et al. does not disclose the use of ambient air and that the pipe (Fig. 1, part 9) is not a pipe along which air is

passed from the washing container but is instead, a pipe along which air is passed into the washing container. With regards to the second and more minor issue, Examiner has already stated that the pipe (Fig. 1, part 9) has been labeled as an inlet pipe as it opens in to the dishwasher; however, this same pipe may be considered an outlet pipe for the drying container (Fig. 2, part 7)."

Appellants herewith address the new arguments set forth by the Examiner with respect to the above-noted rejections of claims 22 and claim 23 as being anticipated under 35 U.S.C. §102(b) by European Patent Application No. 358279 A1 to Fried et al and respectfully request withdrawal of this rejections for the reasons set forth in the Appeal Brief filed 1/15/2010 and the following reasons.

(2) ARGUMENT

A. The Assertion That "Ambient Air" Includes Air In The Washing Container Is Not Correct

Independent claim 21 of the present application is directed to a method for treating crockery disposed in a washing container 2 of a dishwasher 1 (Page 6, lines 31 -34, and the sole figure of the drawings). The method recited in independent claim 21 includes subjecting crockery to at least a washing step, a rinsing step, and a drying step (Page 7, lines 26 - 31, and the sole figure of the drawings), wherein air is passed into contact with the crockery during at least one of the washing, rinsing, and drying steps and such air is thereafter guided to a sorption column 10 communicated with the washing container 2 for the passage of air between the sorption column 10 and the washing container 2 (Page 7, lines 1 - 7, and the sole figure of the drawings), the sorption container 10 containing reversibly dehydratable material 11 that operates to withdraw moisture from air during the passage of the air through the sorption column 10, crockery retained in the dishwasher 1 being subjected to a drying step after having undergone a treatment step as a result of which moisture remains on the crockery with the drying step including passing air from the washing container 2 through the sorption column 10, and the sorption column 10 being subjected to thermal energy to effect

desorption of the sorption column with the thermal energy being at least partly used for at least one of heating the rinsing solution in the washing container and heating the crockery (Page 8, line 26; Page 9, line 2; and the sole figure of the drawings), and the washing container 2 having an outlet with a pipe 6 to the sorption column 10 (Page 7, lines 10 - 11, and the sole figure of the drawings), and the washing container 2 has an inlet 8 with a pipe 7 from the sorption column 10 (Page 7, lines 11 - 13, and the sole figure of the drawings), wherein a fan 9 is located in the pipe 6 to the sorption column 2, which introduces at least some of the air in the washing container or from the ambient air to the sorption column at least temporarily (Page 7, lines 13 - 15, and the sole figure of the drawings).

On Page 13 of the Examiner's Answer dated March 12, 2010, the Examiner now offers the following new reasoning in support of the final rejection of claim 22 as being anticipated under 35 U.S.C. §102(b) by European Patent Application No. 358279 A1 to Fried et al: "Appellant never specifically claims that the ambient air is outside of the dishwasher so the Examiner has interpreted ambient air to include air within the washing container, rather Examiner has interpreted ambient air to include air surrounding the inlet valve within the washing container." However, Appellants point out that independent claim 21, from which claim 22 depends, recites the feature: " wherein a fan is located in the pipe to the sorption column, which introduces at least some of the air in the washing container or from the ambient air to the sorption column at least temporarily", whereupon it is clear in the recital of independent claim 21 that "air in the washing container" and "air...from the ambient air" is necessarily "air" from one source ("the washing container") or from a source different than the washing container ("the ambient air"). Thus, it is not correct for the Examiner to assert that "ambient air" includes "air surrounding the inlet valve within the washing container" - i.e, air within the washing container - when it is clear from independent claim 21, from which claim 22 depends, that the two sources of air are different.

It is accordingly submitted that European Patent Application No. 358279 A1 to Fried et al thus does not anticipate all of the features of the method recited in claim 22 of the present application.

B. The New Assertion That The Part 14 Shown in European Patent Application No. 358279 A1 to Fried et al Is A Disclosure Of The "inlet valve" Recited In Claim 23 Of The Present Application Is Not Correct

On Page 12 of the Examiner's Answer dated April 12, 2010, the Examiner now offers the following additional new reasoning in support of claim 23 as being anticipated under 35 U.S.C. §102(b) by European Patent Application No. 358279 A1 to Fried et al: "Appellant argues that apparatus of Fried et al. does not disclose the use of ambient air and that the pipe (Fig. 1, part 9) is not a pipe along which air is passed from the washing container but is instead, a pipe along which air is passed into the washing container. With regards to the second and more minor issue, Examiner has already stated that the pipe (Fig. 1, part 9) has been labeled as an inlet pipe as it opens in to the dishwasher; however, this same pipe may be considered an outlet pipe for the drying container (Fig. 2, part 7)."

Claim 23 of the present application depends from independent method claim 21 and recites that passing air from the washing container through the sorption column in the method for treating crockery disposed in a washing container includes passing air from a washing container having, in the direction of flow, an inlet valve to the ambient air. In the Final Office Action dated August 19, 2009, the Examiner appears to assert that the part 9 shown in European Patent Application No. 358279 A1 to Fried et al is a disclosure of the "inlet pipe" recited in claim 23 of the present application and the part 14 shown in European Patent Application No. 358279 A1 to Fried et al is a disclosure of the "inlet valve" recited in claim 23. Appellants had noted in the Appeal Brief filed 1/15/2010 that the part 9 shown in European Patent Application No. 358279 A1 to Fried et al is not a pipe along which air is passed from the washing container but is instead, a pipe along which air is passed into the washing container and that the part 14 shown in European Patent Application No. 358279 A1 to Fried et al is not an "inlet valve" within a pipe along which air is passed from the washing container, as recited in claim 23 of the present application. Now, however, in the Examiner's Answer, the Examiner asserts that the part 9 may be considered an outlet pipe for the drying container.

Appellants submit that the mere act of deeming the part 9 of European Patent Application No. 358279 A1 to Fried et al to be an "outlet pipe for the drying container", whereupon the part 14 of European Patent Application No. 358279 A1 to Fried et al would be an "inlet valve" on this "outlet pipe", stills falls short of a showing that this part 14 is the same structure or an equivalent structure of the "inlet valve" recited in claim 23 of the present application. For example, the "inlet valve" recited in claim 23 of the present application is an inlet valve to "ambient air" and, as has been discussed hereinabove with respect to claim 22, the washing container does not comprise "ambient air." Thus, even granting that the part 14 of European Patent Application No. 358279 A1 to Fried et al is an "inlet valve", this part 14 is not an "inlet valve" to ambient air but, instead, is an inlet valve into the washing container of European Patent Application No. 358279 A1 to Fried et al. It is accordingly submitted that European Patent Application No. 358279 A1 to Fried et al thus does not anticipate all of the features of the method recited in claim 23 of the present application.

(3) CONCLUSION

In view of the foregoing discussion, Appellants respectfully request reversal of the Examiner's rejection.

Respectfully submitted,

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